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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,615	06/26/2003	Fumito Takemoto	Q76221	2208

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

CARTER, AARON W

ART UNIT PAPER NUMBER

2624

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,615

Applicant(s)

TAKEMOTO, FUMITO

Examiner

Aaron W. Carter

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/03, 7/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5 and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 5 is drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

“Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.”

“Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure’s functionality to be realized.”

Claim 5, while defining a “program that causes a computer to execute an image data processing method”, does not define a “computer-readable medium” and is thus non-statutory for that reason. A “program that causes a computer to execute an image data processing method” can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

“In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.” - MPEP 2106.IV.B.1(a)

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2001/0012051 to Hara et al. ("Hara") in view of USPN 5,953,050 to Kamata et al. ("Kamata").

As to claim 1, Hara discloses an image data processing method for a portable terminal apparatus comprising:

An imaging means for obtaining first image data by photography (Fig. 2, element 30, paragraph 0043 and 0084, lines 5-8, wherein a camera corresponds to an imaging means and the image data taken by the imaging section corresponds to the first image data);

A communication means for transmitting and receiving data (Fig. 2, element 62, 63 and 64 and paragraph 0076, wherein the combination of the antenna corresponds to a communication);

An image processing means for administering image processes on the first image data to obtain processed image data (paragraph 0050, wherein the image processor corresponds to the image processing means); and

A display means for performing various types of displays (paragraph 0059, wherein the display section corresponds to a display means and is capable of performing various types of displays like displaying image data, messages, communication conditions and other info);

The method being implemented by:

Combining other image data transmitted by *another portable terminal apparatus* with the first image data to obtain synthesized image data (paragraph 0084, 0086 and 0087 wherein image data received from the destination corresponds to other image data and is displayed with the image data being transmitted in a small window on the LCD which corresponds to combining the images to obtain synthesized image data).

Hara does not disclose expressly wherein combining other image data transmitted by *other portable apparatuses* with the first image data to obtain synthesized image data.

However, Kamata discloses an image data processing method for a terminal apparatus comprising of combining other image data transmitted by other terminal apparatuses with first image data to obtain synthesized image data (column 5, line 63 – column 6, line 2, wherein the composite or combinational image corresponds to the synthesized image).

Hara & Kamata are combinable because they are from the same art of image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the method of combining other image data transmitted by other terminal apparatuses with first image data to obtain synthesized image data, as taught by Kamata, with the image data processing method for a portable apparatus disclosed by Hara.

The suggestion/motivation for doing so would have been to provide the ability to allow participants to hold a video conference while watching the composite image (Kamata, column 1, lines 26-27).

Therefore, it would have been obvious to combine Hara with Kamata to obtain the invention as specified in claim 1.

As to claim 2, the combination of Hara and Kamata disclose an image data processing method as defined in claim 1, wherein the synthesized image data is obtained by trimming images representing the other image data and an image representing the first image data to match the size of the display means (Kamata, column 6, lines 3-18, wherein the composite image is obtained by trimming the image of the current speaker to 75% and each non-speaker to 25% and combining the images for display on one display which corresponds to matching the size of the display means).

As to claim 3, please refer to the rejection of claim 1 above.

As to claim 4, please refer to the rejection of claim 2 above.

As to claim 5, please refer to the rejection of claim 1 above.

As to claim 6, please refer to the rejection of claim 2 above.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,211,902 to Tanoi discloses combining images to fit on a display.

US 7,057,635 to Naden discloses combining images to fit on a display.

US 6,473,114 to Strubbe discloses combining images to fit on a display.

US 6,414,707 to Agraharam et al. discloses combining images to fit on a display.

US 5,382,972 to Kannes discloses combining images to fit on a display.

US 6,346,964 to Rogers et al. discloses combining images to fit on a display.

US 2002/0122605 to Chang discloses combining images to fit on a display.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron W. Carter whose telephone number is (571) 272-7445.

The examiner can normally be reached on 8am - 4:30 am (Mon. - Fri.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Aaron Carter
AU 2624